

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**FIRST APPEAL No. 191 of 2006****For Approval and Signature:****HONOURABLE MR.JUSTICE J.M.PANCHAL****HONOURABLE MR.JUSTICE BANKIM.N.MEHTA**

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

Whether this case involves a substantial question
of law as to the interpretation of the

4 constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil judge
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SPECILA LAQ OFFICER & 1 - Appellants

Versus

SHANTABEN ALIAS PUSHPABEN WD/OJAGNNATH NARSINHRAM VYAS &

1 - Respondents.

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Appearance :

MR RC KODEKAR, ASSTT.OVERNMENT PLEADER for Appellants
None for Respondents : 1, 1.2.1, 1.2.2,1.2.3 - 2.

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CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL

and

HONOURABLE MR.JUSTICE BANKIM.N.MEHTA

Date : 26/04/2006**ORAL JUDGMENT****(Per : HONOURABLE MR.JUSTICE J.M.PANCHAL)**

The instant appeal filed under Section 54 of the Land Acquisition Act, 1894 ["the Act" for short] read with Section 96 of the Code of Civil Procedure, 1908, is directed against judgment and award dated October 25, 2002 rendered by the learned 4th Joint Civil Judge (S.D.), Bharuch, in Land Reference Case No. 580 of 1990 by which the claimants are awarded compensation at the rate of RS. 540/- per Are for their lands which were acquired.

2. From the record of the case, it is evident that for public purpose, lands of the claimants were acquired pursuant to notification issued under Section 4(1) of the Act, which was published in Government Gazette on June 30, 1988. The Land Acquisition Officer awarded compensation at the rate of RS. 150/- per Are, though the claimants had claimed compensation at the rate of Rs. 750/- per Are. In Reference before the Court, Mr. Jagnath Narsinhram Vyas was examined at Exh.11. He produced previous Award rendered by the Reference Court in Land Reference Case No.845 of 1987 at Exh.10

relating to lands of village Sachan. In the said case, notification under Section 4 of the Act was published on June 30, 1988 and compensation at the rate of Rs.450/- per Are was awarded to the claimants. The Reference Court in the instant case was of the opinion that the previous Award was comparable and furnished guidance for the purpose of determining market value of the lands acquired in the instant case. The Reference Court was of the opinion that while determining compensation payable to the claimants, 10% rise in price of land should be granted to the claimants. Therefore, the Reference Court has awarded compensation to the claimants at the rate of Rs.540/- per Are by the impugned Award, giving rise to the instant appeal.

3. This Court has heard Mr.R.C.Kodekar, learned Assistant Government Pleader for the appellants and considered relevant documents produced by him for perusal of the Court. In Para-12 of the impugned Award, the Reference Court has held as under :

"In the present case, the claimants have produced the award passed in L.A.R. No.845/87 (Main) and the certified copy of the said award is produced at Exh.10 of the Village Sachan and as per the several decisions of the Hon'ble Supreme Court as well as Hon'ble Gujarat High Court the earlier awards are required to be considered while determining the market value under Section 23 of the L.A. Act. It is also settled legal position by the Hon'ble Supreme Court and the Hon'ble Gujarat High Court that while adjudicating the present claim petition the award already passed in respect of the lands adjoining to the vicinity of the land or of the same land should be considered as comparable instance. Hence, in view of the above decisions of the Hon'ble Gujarat High Court and Supreme Court, I rely upon the award passed in L.A.R. No.845/87 (Main) which is produced in the present case by certified copy at Exh.10 and passed by the Extra Assistant Judge, Bharuch, of Village Sachan. Hence, the claimants are entitled to get Rs.450/- per Are. The notification under Section 4 of the present case is 30-6-88 and notification under Section 4 of the award Exh. 10 is 17-4-86, hence, the difference between notification is approximately two years and as per the decisions of the Hon'ble Gujarat High Court and Supreme Court, the claimants are entitled at least 10% increase in price rise for one year. Here the difference between two notification is two years approximately and as per the award Exh.10 the learned Assistant Judge has awarded Rs.450/- per Are and 10% increase for two years will come to Rs.90/-, hence, the claimants are

entitled to get Rs.450/- + Rs.90/- = Rs.540/- per Are. Hence, the claimants are entitled to get Rs.540/- per Are."

4. The learned counsel for the appellants could not assail the finding recorded by the Reference Court in Para-12 of the impugned judgment, which is quoted above. Therefore, the instant appeal, which has no substance, cannot be entertained and is liable to be dismissed.

For the foregoing reasons, the appeal fails and is summarily dismissed.

[J.M.PANCHAL, J.]

[BANKIM.N.MEHTA, J.]

(patel)